

Frank Mannix, M.D. - February 14, 2006
A000F65

UNITED STATES DISTRICT COURT

DISTRICT OF ALASKA

- - -

KIMBERLY ALLEN, Personal)
Representative of the Estate of)
Todd Allen, Individually on Behalf)
of the Estate of Todd Allen and)
on Behalf of the Minor Child,)
PRESLEY GRACE ALLEN,)

Plaintiffs,)

vs.)

NO. 3:04-CV-0131-JKS

UNITED STATES OF AMERICA,)

Defendant.)

VIDEOTAPED DEPOSITION OF

FRANK MANNIX, M.D.

CARDIFF BY THE SEA, CALIFORNIA

FEBRUARY 14, 2006

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16:29:22 1 who's triaged at a level 2; is that correct?

16:29:25 2 A. As a general statement, that's probably accurate.

16:29:28 3 Q. And someone triaged at a level two, would, again,

16:29:33 4 all things being equal, would be expected to be seen sooner

16:29:37 5 than a level 3?

16:29:38 6 A. Well, that's partly true. But the triage decision

16:29:42 7 also has to do with the level of illness and the level of

16:29:46 8 evaluation required. So when you triage somebody -- when we

16:29:50 9 do this in our emergency department, when you triage somebody

16:29:53 10 to the emergent side, you're saying this person had something

16:29:56 11 serious enough they needed to see a doctor. If they need to

16:30:01 12 see a doctor now, then that becomes -- you move them up in

16:30:04 13 that range to a 1 or whatever that says they need to see the

16:30:08 14 doctor now. But the real triage decision is do they need to

16:30:11 15 see a doctor in the main ER and how soon.

16:30:13 16 If you triage somebody to the urgent care side,

16:30:16 17 you're saying, generally, they don't need to see a doctor

16:30:19 18 necessarily and they don't need to be seen now. So you're

16:30:22 19 pretty much ruling out life threatening problems with that

16:30:25 20 triage decision.

16:30:26 21 Q. And I'm just focusing for the moment, I'll get to

16:30:29 22 the second part, on the question of how soon they're seen.

16:30:32 23 And maybe I can simplify this. Do you think there's any

16:30:35 24 causal connection as to indicate in terms of the time when

16:30:38 25 Mr. Allen was seen and his injuries in this case?

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16:32:02 1 the other critical questions -- what was the onset of his

16:32:04 2 headaches. Subarachnoids usually start right now. The

16:32:08 3 patient can tell you. That's not the way jaw pain starts.

16:32:12 4 Is this just like the pain you've had before? And we're back

16:32:14 5 into the same conversation. So there was a misvaluation and

16:32:17 6 triage. And a result of that was that he was triaged in a

16:32:22 7 way that he went to the nurse practitioner.

16:32:27 8 Q. And that part I understood. I guess I'm trying to

16:32:29 9 explore -- I understand you're critical of that. But in

16:32:31 10 terms of practical results, I guess is what I'm looking at,

16:32:33 11 you're not critical of how long it took them to see him. So

16:32:36 12 I can set that aside.

16:32:37 13 A. That's correct.

16:32:38 14 Q. Now, in terms of who saw him, you're critical in

16:32:42 15 that you think he should have been seen by an emergency

16:32:47 16 physician, not by a nurse practitioner.

16:32:49 17 A. Well, what I'm saying is that their own internal

16:32:52 18 guidelines say that they should have been triaged to the main

16:32:56 19 emergency department. Now, category 3 makes -- and he's very

16:32:56 20 clearly a category 2 in their guidelines. Category 3 makes

16:33:00 21 room for the possibility that if the triage is busy, a

16:33:03 22 midlevel practitioner would see that patient. But my review

16:33:03 23 of the log that day indicates that all the level 3 patients

16:33:07 24 were seen by doctors. So had the patient been triaged 2 or

16:33:24 25 3, a doctor would have seen the patient. And in my judgment,

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16:30:41 1 A. Well, let me refresh my memory about the times. I

16:30:45 2 think he was triaged at 7:10 and seen at 7:35. And honestly,

16:30:51 3 Counselor, that's good in any ER.

16:30:54 4 Q. So the fact that it took 25 or 30 minutes to see

16:30:57 5 him, that's not a problem that you're critical in the case?

16:30:59 6 A. It's not.

16:31:00 7 Q. Okay.

16:31:00 8 And I take it what you are critical of is the fact

16:31:04 9 that he was seen by a nurse practitioner as opposed to by an

16:31:08 10 emergency room physician?

16:31:09 11 A. Well, let me backtrack. What I'm really critical

16:31:13 12 of is the triage assessment itself which focuses again on his

16:31:17 13 recurrent pain problem and doesn't ask any of the key

16:31:20 14 question about differentiating -- I mean, by her own

16:31:24 15 admission, it's a ten out of ten pain in the head and in the

16:31:29 16 ears. That in any emergency department is going to be

16:31:33 17 triaged in a fairly emergent way. But she asks none of those

16:31:37 18 questions, and it's very clear that she made some decisions

16:31:41 19 about him when she saw him based on the previous history.

16:31:45 20 She initially said, "He's in all the time. I see him all the

16:31:48 21 time." When she's pushed on that, the best she could come up

16:31:52 22 with was, "Well, I think I saw him when he came in with the

16:31:55 23 initial injury." And then she says, "I didn't really believe

16:31:58 24 that he was having as much pain as he said." Well, you make

16:31:58 25 those kind of assumptions at your own jeopardy. And none of

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16:33:24 1 although I think the standard of care still applies to the

16:33:24 2 nurse practitioner, I think the likelihood that this

16:33:24 3 diagnosis would have been or at least suspected was higher.

16:33:26 4 Q. And that's what I was trying to get to. Your

16:33:30 5 critique ultimately is that if a triage at 2 or 3 had been

16:33:32 6 seen by an emergency room physician as opposed to a nurse

16:33:35 7 practitioner, that it's more likely that he would have --

16:33:38 8 there would have been a diagnosis of this subarachnoid

16:33:41 9 hemorrhage?

16:33:41 10 A. I believe so.

16:33:41 11 Q. Okay.

16:33:42 12 Now, before we get to that, is it -- do you agree

16:33:45 13 that at any time if Nurse Feary had thought that he was more

16:33:50 14 seriously ill or that he should have been triaged at a higher

16:33:55 15 level of 3 or 2 or 1, she could have referred him or

16:33:58 16 consulted with emergent room physicians?

16:34:01 17 A. Absolutely.

16:34:02 18 Q. So it's not like you get triaged once and the game

16:34:06 19 is over, you never get a chance to see an ER doctor, shut in

16:34:12 20 to another facility for that initial term at all. It

16:34:17 21 indicates Ms. Nurse Feary assessed him. In her own

16:34:19 22 testimony, she said if she thought he was more seriously ill,

16:34:23 23 she could have consulted with a doctor; correct?

16:34:25 24 A. Correct.

16:34:25 25 Q. And you would expect a nurse practitioner, I take

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